

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

IN RE: NATIONAL ARBITRATION
FORUM TRADE PRACTICES
LITIGATION

THIS DOCUMENT RELATES TO:
ALL ACTIONS

MDL No. 10-2122 (PAM-JSM)

**STIPULATED MOTION FOR STAY
OF PROCEEDINGS
PENDING MEDIATION**

All parties, by and through their undersigned counsel, stipulate, agree, and jointly move the Court as follows:

WHEREAS, the parties have agreed to pursue settlement through mediation by a mediator to be determined and agreed to by the parties;

WHEREAS, the parties agree that all proceedings in the District Court involving this matter should be stayed, subject to limited exceptions listed below, until they can determine whether settlement is possible;

WHEREAS, the parties agree that they do not wish to prejudice any of their respective rights or interests in the litigation of this matter or under the terms of any order of this Court;

THEREFORE, the parties, through their undersigned counsel, hereby stipulate and jointly move the Court to enter an order as follows:

1. Scope of Stay. Subject to the provisions of paragraph 2 below, all proceedings in the District Court involving this matter shall be stayed, effective immediately, including discovery requests, discovery responses, depositions (whether

noticed or not), status conferences, briefs, hearings, and all matters currently scheduled by the parties or the Court, provided that the plaintiffs shall serve and file their second amended consolidated class action complaint, if any, by no later than the agreed to May 3, 2010. If a second amended consolidated class action is filed, the date for any response or answer shall be stayed pursuant to the terms of this order.

2. Exceptions to Stay. The stay set forth in paragraph 1 shall not pertain to (1) all proceedings currently pending in the United States Court of Appeals for the Eighth Circuit relating to certain Defendants' appeals from this Court's order denying their motions to dismiss, or (2) proceedings before the Judicial Panel on Multidistrict Litigation ("JPMDL") related to currently pending or future matters under consideration for transfer to this Court and consolidation with this matter, nor shall the stay be interpreted to prevent or limit any party's ability to act in a different proceeding necessary to bring related matters before the JPMDL.

3. Other Orders To Remain in Effect. This stay shall not supersede, repeal, limit, or otherwise affect any orders of this Court, other than the Second Amended Pretrial Schedule (Doc.20) and the April 12, 2010 Order denying Appellants' Motion to Stay Pending Appeal, and all such orders shall otherwise remain in full force and effect, including but not limited to the November 18, 2009 document preservation order. The parties shall continue to work to resolve issues related to the preservation of Mann Bracken LLP and Axiant LLC documents, which issues have been the subject of proceedings before Magistrate Judge Mayeron.

4. Confidentiality of Settlement Discussions and Mediation. All settlement discussions and mediation proceedings shall be protected by Rule 408 of the Federal Rules of Civil Procedure.

5. Termination of Mediation. Any one party may opt out of the mediation process at any time. If an opt-out occurs, the stay shall be terminated. The parties remaining in the mediation may choose to continue the mediation between them without the benefit of the stay or they may choose to terminate the mediation.

6. Duration of Stay and Recommencement of Proceedings. In the event the mediation leads to a proposed settlement, the parties shall so notify the Court and shall submit a stipulated amended pretrial schedule to the Court directed at scheduling settlement proceedings pursuant to Rule 23(e) of the Federal Rules of Civil Procedure. In the event a party opts out of the mediation or the parties conclude that settlement discussions are no longer productive or desirable, that party or the parties shall notify the Court, which notification shall be limited to: "Pursuant to the terms of the Stipulated Motion for Stay of Proceedings Pending Mediation, the parties hereby notify the Court that stay of all proceedings should be terminated." In conjunction with such notification, the parties shall submit a stipulated amended pretrial schedule directed at litigation management, recognizing that all existing pretrial orders of the Court shall remain in effect, save the amendment of the pretrial schedule itself, which schedule shall continue to include a bifurcation of discovery and an early date for consideration of class certification.

7. Periodic Status Reports. During the period of the stay, the parties shall

provide written status updates to the Court every thirty (30) days. Those status reports shall inform the Court of the status of mediation process. The status reports shall not report on the parties' positions in mediation or of the substance of their negotiations.

Dated: April 20, 2010

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